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7
8 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
9 STATE OF CALIFORNIA

10
11 In the Matter of:

FPPC No: 10/552

12 JEFF STONE, JEFF STONE FOR
13 STATE SENATE 2010,
14 and, JOSEPH KUEBLER
15 Respondents.

STIPULATION, DECISION, and
ORDER

16
17 Complainant Roman G. Porter, Executive Director of the Fair Political Practices
18 Commission, and Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Joseph Kuebler
19 hereby agree that this Stipulation will be submitted for consideration by the Fair Political
20 Practices Commission at its next regularly scheduled meeting.

21 The parties agree to enter into this Stipulation to resolve all factual and legal issues raised
22 by this matter and to reach a final disposition without the necessity of holding an administrative
23 hearing to determine the liability of Respondents.

24 Respondents understand, and hereby knowingly and voluntarily waive, any and all
25 procedural rights set forth in Sections 83115.5, 11503 and 11523 of the Government Code, and
26 in Sections 18361.1 through 18361.9 of title 2 of the California Code of Regulations. This
27 includes, but is not limited to, the right to personally appear at any administrative hearing held in
28 this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-

1 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to
2 have an impartial administrative law judge preside over the hearing as a hearing officer, and to
3 have the matter judicially reviewed.

4 It is further stipulated and agreed that Respondents violated the Political Reform Act by
5 failing to file online campaign reports disclosing contributions of \$1,000 or more received during
6 an election cycle, in violation of Government Code section 85309, subdivision (a) (8 Counts); as
7 described in Exhibit 1. Exhibit 1 is attached hereto and incorporated by reference as though fully
8 set forth herein. Exhibit 1 is a true and accurate summary of the facts in this matter.

9 Respondents agree to the issuance of the Decision and Order, which is attached hereto.
10 Respondents also agree to the Commission imposing upon them an administrative penalty in the
11 amount of Sixteen Thousand Dollars (\$16,000). A cashier's check from Respondents in said
12 amount, made payable to the "General Fund of the State of California," is submitted with this
13 Stipulation as full payment of the administrative penalty, and shall be held by the State of
14 California until the Commission issues its Decision and Order regarding this matter. The parties
15 agree that in the event the Commission refuses to accept this Stipulation, it shall become null and
16 void, and within fifteen (15) business days after the Commission meeting at which the
17 Stipulation is rejected, all payments tendered by Respondents in connection with this Stipulation
18 shall be reimbursed to Respondents. Respondents further stipulate and agree that in the event the
19 Commission rejects the Stipulation, and a full evidentiary hearing before the Commission
20 becomes necessary, neither any member of the Commission, nor the Executive Director, shall be
21 disqualified because of prior consideration of this Stipulation.

22
23
24
25 Dated: _____

Roman G. Porter, Executive Director
Fair Political Practices Commission

1 Dated: _____

Jeff Stone, individually and on behalf of
Jeff Stone for State Senate 2010, Respondents

4 Dated: _____

Joseph Kuebler, individually and on behalf
of Jeff Stone for State Senate 2010, Respondents

8 **DECISION AND ORDER**

9 The foregoing Stipulation of the parties "In the Matter of Jeff Stone, Jeff Stone for State
10 Senate 2010, and Joseph Kuebler, FPPC No.10/552," including all attached Exhibits, is hereby
11 accepted as the final Decision and Order of the Fair Political Practices Commission, effective
12 upon execution below by the Chairman.

14 IT IS SO ORDERED.

16 Dated: _____

Ann Ravel, Chair
Fair Political Practices Commission

EXHIBIT 1

INTRODUCTION

Respondent Jeff Stone (“Respondent Stone”) was an unsuccessful candidate for the California State Senate in the June 8, 2010 Primary Election, representing the 36th District. The Jeff Stone for State Senate 2010 committee (“Respondent Committee”) was the candidate controlled committee. At all relevant times, Respondent Joseph Kuebler (“Respondent Kuebler”) was the Treasurer for Respondent Committee.

The Respondent Committee was created on March 13, 2009, as a candidate controlled committee. During the period March 13, 2009, through June 30, 2010, Respondent Committee reported receiving contributions of approximately \$584,803 and making expenditures totaling approximately \$579,384.

The Respondents violated the requirements of the Political Reform Act (the “Act”)¹ by failing to file online campaign reports disclosing contributions of \$1,000 or more during the 90 day period before an election.

For the purposes of settlement, Respondents’ violations of the Act are stated as follows:

\$1,000 ONLINE REPORTS

- Count 1: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing three contributions of \$1,000 or more, totaling \$5,900, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 6, 2010, due on or about April 7, 2010, in violation of Government Code section 85309, subd. (a).
- Count 2: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing seven contributions of \$1,000 or more, totaling \$20,600, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 7, 2010, due on or about April 8, 2010, in violation of Government Code section 85309, subd. (a).

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- Count 3: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing three contributions of \$1,000 or more, totaling \$4,400, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 20, 2010, due on or about April 21, 2010, in violation of Government Code section 85309, subd. (a).
- Count 4: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing four contributions of \$1,000 or more, totaling 11,800, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 27, 2010, due on or about April 28, 2010, in violation of Government Code section 85309, subd. (a).
- Count 5: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing three contributions of \$1,000 or more, totaling \$9,502, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 28, 2010, due on or about April 29, 2010, in violation of Government Code section 85309, subd. (a).
- Count 6: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing four contributions of \$1,000 or more, totaling \$12,300, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about April 29, 2010, due on or about April 30, 2010, in violation of Government Code section 85309, subd. (a).
- Count 7: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing four contributions of \$1,000 or more, totaling \$9,650, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about May 3, 2010, due on or about May 4, 2010, in violation of Government Code section 85309, subd. (a).
- Count 8: Respondents Jeff Stone, Jeff Stone for State Senate 2010, and Treasurer Joseph Kuebler failed to file an online campaign report disclosing four contributions of \$1,000 or more, totaling \$9,900, with the Secretary of State, during the 90-day period before the June 8, 2010 Primary Election, received on or about May 11, 2010, due on or about May 12, 2010, in violation of Government Code section 85309, subd. (a).

SUMMARY OF THE LAW

Duty to File Periodic Campaign Statements and Reports

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient committee.” Under Section 82016, a recipient committee controlled by a candidate is a “controlled committee.”

Duty to File Reports Online

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires any candidate, officeholder, committee, or other person who is required to file statements, reports, or other documents in connection with a state elective office to file them online or electronically when the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$50,000 or more. (§ 84605, subd. (a).)

Once a person or entity is required to file online or electronically, the person or entity is required to file all subsequent reports online or electronically as well. (§ 84605, subd. (g).) Persons filing online or electronically are also required to continue to file required disclosure statements and reports in paper format, which continue to be the official filing for audit and other legal purposes until the Secretary of State determines the system is operating securely and effectively. (§ 84605, subd. (i).)

Duty to Report Contributions Received During the Election Cycle of \$1,000 or More

A candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of \$1,000 or more received during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution. (§85309, subd. (a).) “Election cycle” for the purposes of Section 85309 means the period of time commencing 90 days prior to an election and ending on the date of the election. (§ 85204.)

Joint and Several Liability of Candidate and Treasurer

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, it is the duty of a candidate and the treasurer of his or her controlled committee to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A candidate and the treasurer of his or her controlled committee may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (See Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Stone was an unsuccessful candidate for the California State Senate in the June 8, 2010 Primary Election, representing the 36th District. Respondent Committee was the candidate controlled committee. At all relevant times, Respondent Kuebler was the Treasurer for Respondent Committee.

The Respondent Committee was created on March 13, 2009, as a candidate controlled committee. During the period March 13, 2009, through June 30, 2010, Respondent Committee reported receiving contributions of approximately \$584,803 and making expenditures totaling approximately \$579,384. Respondents exceeded the \$50,000 threshold and were required to file online campaign reports pursuant to Section 84605.

Respondents disclosed the contributions of \$1,000 or more received during the 90-day period before the June 8, 2010 Primary Election on or about June 2, 2010. Respondents state that Respondent Stone informed Respondent Kuebler's firm that the Respondent Committee had a filing requirement to disclose contributions of \$1,000 or more received during the 90-day period before the June 8, 2010 Primary Election. However, Respondent Kuebler's staff informed Respondent Stone that these filing requirements did not apply to the Respondent Committee. After a second phone call from Respondent Stone regarding this issue, Respondent Kuebler's firm realized that they mistakenly identified Respondent Committee as a non-electronic filer in the database. Upon learning of this error, all reports disclosing contributions of \$1,000 or more received during the 90-day period before the June 8, 2010 Primary Election were filed, on or about June 2, 2010.

Counts 1-8

Failure to Report Contributions of \$1,000 or More Online

During the 90-day period before the June 8, 2010 Primary Election, from March 8, 2010, through June 8, 2010, Respondents were required to disclose each contribution of \$1,000 or more in an online campaign report filed within 24 hours of receipt.

In this matter, Respondents failed to disclose 32 contributions of \$1,000 or more during this reporting period within 24 hours of receipt in eight separate online campaign reports, totaling \$84,052. The unreported contributions are shown in the following table, according to the count to which they correspond.

Count	Date Received	Contributor(s)	Amount
1	April 6, 2010	Nancy Cartwright Mel Elliot Neil Willner	\$3,900 \$1,000 \$1,000
2	April 7, 2010	Hanna Marital Trust Monteleone Meadows Pechanga Bank of Luiseno Indians TCM Group George Duggan Randall Lewis Fredrick W. Noble	\$3,900 \$3,900 \$3,900 \$1,000 \$3,000 \$3,900 \$1,000
3	April 20, 2010	Thomas P. D' Amico Mel Elliot Soros Mediterranean Grill	\$2,000 \$1,000 \$1,400
4	April 27, 2010	Michael Baybak and Co., Inc. Temecula Valley Vineyards Wine Road Vintners, LLC Kenneth Gerbino	\$1,000 \$3,900 \$3,900 \$3,000
5	April 28, 2010	In Sook Yoo Samuel Yoo Won Yoo	\$1,801 \$3,801 \$3,900
6	April 29, 2010	Diana Cosijn-Van Kalmthout Terri Kent-Ponte Mark A. McCaslin Peter Van Kalmthout	\$3,900 \$2,500 \$2,000 \$3,900
7	May 3, 2010	Forest City Commercial Mgt. Inc. Steve Q. Chapin Bill Johnson Patricia D. Johnson	\$1,000 \$1,100 \$3,900 \$3,650
8	May 11, 2010	Kenco Company Kenco Company Elizabeth Baybak Stephen Wheeler	\$3,900 \$1,100 \$3,900 \$1,000
		Total:	\$84,052

By failing to file online campaign reports disclosing contributions of \$1,000 or more received during the election cycle, as set forth above, Respondents committed eight violations of Section 85309, subdivision (a).

CONCLUSION

This matter consists of eight counts, which carries a maximum possible administrative penalty of Forty Thousand Dollars (\$40,000).

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violations; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; and whether there was a pattern of violations.

This matter involves multiple campaign reporting violations. The public harm inherent in these types of violations, where pertinent information is not disclosed before an election, is that the public is deprived of important information such as the sources and amounts of contributions to a campaign and the amounts expended by the campaign.

AGGRAVATING FACTORS

Respondents failed to file multiple campaign reports disclosing contributions received by the Respondent Committee. Additionally, a large amount of campaign activity should have been reported in online campaign statements.

MITIGATING FACTORS

Respondents filed all of the contributions of \$1,000 or more during the election cycle prior to contact from the Enforcement Division and prior to the June 8, 2010 Primary Election, on or about June 2, 2010. Respondents state that the failure to timely file the campaign reports resulted from an error made by Respondent Kuebler's firm. The Enforcement Division found no evidence that the reporting omissions in this matter were anything other than inadvertent. Additionally, Respondent Committee timely filed pre-election campaign statements disclosing these contributions.

COUNTS 1 – 8

With regard to the \$1,000 online reporting violations, the typical administrative penalty for failing to file online reports within 24 hours disclosing contributions of \$1,000 or more received during the election cycle have historically resulted in penalties in the mid to low range of the available penalties, depending on the facts of the case. In this matter, Respondents failed to report 32 contributions in eight separate online campaign election cycle reports, totaling \$84,052. Thus, a stipulated administrative penalty of \$2,000 per count is appropriate for these violations.

Accordingly, the facts and circumstances of this case justify a total stipulated administrative penalty of \$16,000.

